

REMARKS/ARGUMENTS

Status of the Claims and Formal Matters

Prior to this amendment, claims 1-137 were pending in this application, and of these, claims 40-137 were withdrawn. Pending claims 6-7 and 28-39 have been cancelled in this Amendment. In addition, withdrawn claims 40-107 and 120-137 have been cancelled. Claims 108-119 remain withdrawn. Applicants request that withdrawn claims 108-119 be rejoined in accordance with the provisions of MPEP § 821.04 upon allowance of claims 1-5 and 8-27. Applicants assert the right to reclaim withdrawn or cancelled subject matter in co-pending applications.

Claims 2, 3, 9, 10, 11, 24, 25 and 26 have been amended. No new matter has been introduced by this amendment. Support for the amended recitations can be found throughout the specification. New claims 138-167, 179-182 have been added (note that new claims 163-167 are method claims depending from withdrawn claims and are added here for the sole purpose of rejoinder as requested above for claims 108-119). No new matter has been introduced by this amendment. Support for the amended recitations can be found throughout the specification. Specifically, new claim 138 provides an embodiment of the invention that characterizes the distinct dominant peaks in Figure 13A, which finds support, *inter alia*, at page 10, lines 17-21 and page 65, lines 6-9 and Figure 13 A; new claim 139 provides an embodiment of the invention that characterizes the distinct dominant peaks in Figure 13A, which finds support, *inter alia* at page 10, lines 1-9 and page 65, lines 6-9 and Figure 13 A; new claim 140 finds support, *inter alia* on page 6, lines 6-10 and page 10, lines 10-12; new claim 141 finds support, *inter alia*, at page 70, lines 10-11; new claim 142 finds support, *inter alia*, at page 69, lines 24-25 and page 70, lines 1-8; new claims 143-145 find support, *inter alia*, on page 13, lines 29-31 and Figure 13A, 14A and 15A; new claims 146 and 179-182 find support, *inter alia*, in Figure 13A, 14A and 15A; new claim 147 provides an embodiment of the invention that characterizes the distinct dominant peaks in Figure 13A, which finds support, *inter alia*, at page 10, lines 17-21 and page 65, lines 6-9 and Figure 13 A; new claim 148 provides an embodiment of the invention that characterizes the distinct dominant peaks in Figure 13A, which finds support, *inter alia* at page 10, lines 1-9

and page 65, lines 6-9 and Figure 13 A; new claim 149 finds support, *inter alia* on page 6, lines 6-10 and page 10, lines 10-12; new claim 150 finds support, *inter alia*, at page 70, lines 10-11; new claim 151 finds support, *inter alia*, at page 69, lines 24-25 and page 70, lines 1-8; new claim 152 finds support, *inter alia*, on page 12, line 20; new claim 153 finds support, *inter alia*, on page 12, line 12; new claim 154 finds support, *inter alia*, on page 12, line 13; new claim 155 finds support, *inter alia*, on page 12, line 14 and 20; new claims 156, 166, 170, and 175 find support, *inter alia*, on pages 55-59; new claims 157, 167, 172, and 177 find support, *inter alia*, on page 57, line 22 to page 58, lines 1-19; new claims 158-162 and 178 find support, *inter alia*, on page 58, lines 31-35 to page 59, lines 1-6; new claims 163-165 find support, *inter alia*, in original claims 110 and 112, as well as page 12, lines 3-15; and new claims 168, 169, 171, 173, 174, and 176 find support, *inter alia*, on page 58, lines 23-35 to page 59, lines 1-6 of the specification as originally filed. No new matter has been introduced by this amendment.

Applicants have added herewith new claims 168-178, which correspond to claims 160, 161, 164-168, and 171-174 from the related, co-pending U.S. Application Serial No. 10/379,149, filed on March 4, 2003. The Examiner indicated that adding new claims 168-178 to the present application would be permitted in a telephonic interview with Ivor Elrifi of July 13, 2007. Applicants intend to cancel the corresponding claims from U.S. 10/379,149 once notification of the allowability of instant claims 168-178 has been received. Examiner Valenrod is thanked for courtesies extended in the telephonic interview of July 13, 2007.

After entry of this amendment, claims 1-4, 8-21 and 24-26 are indicated in the Office Action as allowed. Claim 27 was objected to as dependent on a rejected base claim (which has been remedied) and claims 22-23 were rejected as being dependent on themselves (that too has been remedied).

Correction of Inventorship

Applicants thank the Examiner for his comments regarding corrected inventorship. In view of the amendments to and cancellation of certain claims herein, further inventorship changes are necessary. Applicants have filed herewith a Petition Under 37 C.F.R. §1.48 along with the appropriate fee under 37 C.F.R. §1.17(i) in order to delete those inventors who were

correctly named in the instant application as filed, but are not inventors of the invention recited by the pending claims, as amended herein. A copy of the signed Petition is enclosed herewith.

Claim Rejections under 35 U.S.C. §112

Claims 22 and 23 stand rejected as being dependent on themselves. Claim 22 has been amended to depend from claim 21; claim 23 has been amended to depend from claim 22. The rejection is moot.

Claim Rejections under 35 U.S.C. §102(b)

Claims 28, 33, 34 and 35 stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Stowell et al (J. Med. Chem. (1995) 38: 1411-1413; “Stowell”). Claims 28, 33, 34 and 35 have been cancelled -- the rejection is moot.

Double Patenting

Claims 28, 29, 31, 32, 37, 38, and 39 stand provisionally rejected under 35 U.S.C. §101 as allegedly claiming the same invention as that of claims 156-159 of co-pending Application No. 10/379,149. According to the Office Action, this is a provisional double patenting rejection since the conflicting claims have not in fact been patented. Applicants have cancelled claims 28-39 here -- accordingly, the rejection is moot.

Furthermore, as discussed elsewhere in this Response, Applicants have added new claims 168-178, which correspond to pending claims 160, 161, 164-168, and 171-174 of co-pending Application No. 10/379,149. Upon notification of allowability of new claims 168-178, Applicants intend to cancel the corresponding claims from Application No. 10/379,149.

Claim Objections

The Examiner objected to claims 27, 30 and 36. Claims 30 and 36 are cancelled. Claim 27 has been amended to correct its dependency -- Applicants believe in view of the Examiner’s indication of allowability of the claims from which claim 27 now depends (and the amendments to claims 22 and 23), claim 27 is also now allowable.

CONCLUSION

This application is believed to be in condition for allowance. Favorable action on the merits is respectfully requested. If any discussion regarding this Response is desired, the Examiner is respectfully urged to contact the undersigned at the number given below, and is assured of full cooperation in progressing the application to allowance.

Applicants believe no additional fees are due with the filing of this Amendment. However, if any additional fees are required, Applicants hereby authorize the Commissioner to charge such fee, or credit any overpayment in fees, to Deposit Account No. **50-0311**; Customer Number **35437**; Reference Number: **24852-501 CIP**.

Respectfully submitted,

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